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Filipinos Say Marcos Was Given Millions for '76 Nuclear Contract

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MANILA, March 6 — Former President Ferdinand E. Marcos received most of an $80 million payment 10 years ago for awarding a lucrative contract to build the first nuclear power plant in the Philippines, according to Filipino lawyers, bankers and Government officials.

The payment, by the Westinghouse Electric Company, went to a close associate of Mr. Marcos and the bulk of it was later turned over to the former president, the sources said. The power plant has not yet been completed.

The episode is described by the officials and others as an example of how Mr. Marcos and his friends were able to amass huge fortunes under his rule. At the same time, the Philippines economy was deteriorating and the country accumulating a foreign debt that now totals about $26 billion.

In Manila, meanwhile, demands increased for a new and deeper inquiry into the 1983 assassination of Benigno S. Aquino Jr., the opposition leader whose death began the chain of events that drove Mr. Marcos into exile last week.

Part of the story of Mr. Marcos's role in the nuclear reactor project was reported when the contract was signed in 1976. But since his ouster last month, new details have emerged in discussions and documents, including the amount of the payments and allegations that the former President was the ultimate recipient.

Commissions From Westinghouse

A spokesman for Westinghouse in 1976 acknowledged that the company had paid commissions to the Marcos aide, Herminio Disini, "for assistance in obtaining the contract and for implementation services."

But the spokesman refused then to comment on the size of the fees or disclose precisely what Mr. Disini had done for Westinghouse. That was "proprietary information for commercial and competitive reasons," the spokesman said.

A Westinghouse executive, asked recently about the matter, said that the reports of the payments were thoroughly investigated at the time by the Securities and Exchange Commission and the Justice Department and that "Westinghouse was cleared of any impropriety."

The Filipinos familiar with the deal asserted that Westinghouse had turned to Mr. Disini, a regular golf partner of Mr. Marcos who is married to a cousin of Mr. Marcos's wife, Imelda, when it appeared the Philippine Government was going to award the reactor project to Westinghouse's major competitor, the General Electric Company.

General Electric was the preference of a special committee appointed by President Marcos to determine the award, two former members of the panel said, and it was also the choice of the then-head of the Philippine National Power Corporation, Ramon Ravanzo, Mr. Ravanzo said in an interview.

When Mr. Marcos overruled them, signing a letter of intent with Westinghouse in June 1974 before Westinghouse had even submitted a detailed bid, the Secretary of Industry, Vincente Paterno, described the Westinghouse deal in an angry memo to Mr. Marcos as "one reactor for the price of two," several former officials recalled.

Mr. Disini, who now lives in a castle near Vienna, received payments through four channels, said a lawyer and a banker who negotiated the deal with him.

They requested anonymity because the new Government of President Corazon C. Aquino has begun an investigation into how Mr. Marcos and his associates amassed their fortunes and they expressed concern over their own positions.

U.S. Official in Situation

A Their accounts also show how Westinghouse and a senior United States Government official, William J. Casey, who was then on President Ford's foreign-intelligence advisory board and is now the director of Central Intelligence, were drawn into a situation through which Mr. Marcos was able to enhance his wealth.

[In Washington, a C.I.A. spokesman said that Mr. Casey was not available for comment.]

One channel was that Westinghouse helped Mr. Disini acquire Asian Industries, its distributorship in the Philippines, with commissions then paid to the company for Mr. Disini's benefit, said a banker who worked for him at the time. The Westinghouse spokesman acknowledged that payments were made to Asian Industries.

Mr. Disini also set up a construction company, Power Contractors, which was named the chief contractor for building the reactor, on an isolated promentary on the Bataan Peninsula overlooking the South China Sea. In addition, a small insurance company owned by Mr. Disini wrote a $688 million policy on the nuclear plant, the largest ever written in the Philippines.

Deal With Swiss Subsidiary

But the largest source of money came from a Swiss subsidiary of Westinghouse that funneled fees for Mr. Disini into European banks, the lawyer and banker contended.

A copy of the contract between Westinghouse and the National Power Corporation, obtained by The New York Times, shows that the deal was made with this Swiss subsidiary, Westinghouse Electric, S.A. The Swiss concern, however, then "assigned the entire contract to Westinghouse International Projects Company," an entity established solely to handle the Philippine reactor, the document says. In turn, this company "entered into a subcontract with Westinghouse Electric Company" in Pittsburgh, the parent company.

"There was nothing illegal about this contract," said the lawyer who worked on it. "But if you look at the terms closely, you will see that the price of the equipment being sold to the Philippines was inflated, as a way to cover the cost of the fees to Disini."

[In Pittsburgh, Westinghouse said it was "inappropriate" to compare the price of the Philippine plant with any other.

["The Marcos Government ordered an 18-month delay in midconstruction," a Westinghouse official said, when asked about the matter this week. "The plant was built in a period of high inflation. And the scope of the project was beyond that for any of the other plants mentioned," the company said, when told of the allegations.

["It included extraordinary infrastructure costs, such as housing for several thousand workers. These differences would actually exceed the $75 million."

["These allegations" of illicitly inflated costs, the official said, "are completely without merit."]

Risk of Federal Violation

The reason for the complex arrangement with the Swiss concern, the lawyer added, was that Westinghouse couldn't pay Mr. Disini fees directly without risking violation for bribery under various United States fraud laws or laws requiring corporate disclosure. But there are no similar restrictions in Switzerland, the lawyer said.

The lawyer said Mr. Disini's commission from the Swiss subsidiary was 5 percent of the value of Westinghouse's part of the project, now believed to be about $1 billion, plus expenses.

"That was the figure we discussed," he related. The fee, which was to be paid out as construction progressed, would now be $50 million.

A banker who represented Mr. Disini in the transaction said a special fund was then set up in Switzerland to disperse the money to Mr. Disini, President Marcos and one or two of Mr. Disini's employees.. Mr. Marcos was to receive 95 percent of the fee, the banker recalled.

Continued

'Disini a Conduit'

"After all, it was Marcos's deal. Disini was just a conduit," the banker said.

Altogether, the banker calculated, the commissions from the Westinghouse project had netted Mr. Disini and Mr. Marcos about $80 million. This is close to an estimate by the Philippine National Computer Center in 1975, commissioned by President Marcos's own committee to select a contractor, that the Westinghouse plant was at least $75 million too expensive compared with similar plants being built in Taiwan, South Korea and Yugoslavia, a former committee member said.

After the deal had been completed, Mr. Disini wrote out a neat one-page memo outlining its terms, which he gave to President Marcos, said the banker. It was President Marcos's custom to keep such simple reports, usually unsigned, on all the transactions in which he had an interest. "They were filed in manila folders in a vault in Malacanang Palace," the banker said.

"These claims that money was paid to President Marcos are not new," said Robert F. Pugliese, vice president and general counsel for Westinghouse. "They have been thoroughly investigated by the Securities and Exchange Commission and the United States Department of Justice. In both instances, Westinghouse was cleared of any impropriety."

The reactor, which Westinghouse started to build in 1976 with a budget of $600 million, has not been completed and has already cost the Philippines $2.1 billion. Interest costs on the plant, which was financed by loans from foreign banks and the United States Export-Import Bank, now run to $210 million a year, according to a study by the Makati Business Club, a private business executives' group. That is 8 percent of the Philippines' total foreign debt of $26 billion.

The reactor has since become a major political issue in the Philippines. After the accident at the Three Mile Island nuclear power plant in Pennsylvania in 1979, work on the reactor here was stopped, and a Government investigation discovered errors in the design and construction. The inquiry also charged that the reactor was being built on the side of a volcano and within an earthquake fault zone.

The New People's Army, the military wing of the Communist Party of the Philippines, has capitalized on popular opposition to the reactor by blowing up a number of its transmission towers. And Mrs. Aquino, the new President, pledged during her campaign not to let it open, though it is virtually finished.

Mr. Casey, now the director of Central Intelligence, figures in the Westinghouse episode because he was then head of the Export-Import Bank, which helps finance American sales abroad.

The American Embassy in Manila, in a report to Washington, raised serious questions about the Westinghouse deal, two diplomats said, cautioning that the price was inflated, that there were reports of payoffs and that the project would never pay for itself.

But Mr. Casey, after a visit to Manila, approved support by the Ex-Im Bank. The Ex-Im Bank provided $277 million in direct loans and $676 million in loan guarantees, making it the largest deal the agency had backed anywhere in the world.

A spokesman for the Ex-Im Bank said in the aftermath of the 1976 disclosure that there was nothing improper in Mr. Casey's action. But the two members of the Philippine Presidential Commission who opposed the award to Westinghouse said the Ex-Im Bank should have detected irregularities because it had already had to stop guaranteeing applications for foreign loans for the Philippines in 1976, when the country reached its World Bank approved limit.

[J. Ross Boner, a spokesman for the Export-Import Bank, said in Washington that Bill Sullivan, the Ambassador at the time, strongly supported the bank's loans to the Westinghouse project. The nuclear plant was planned after the sharp jump in oil prices that began in 1973.

[The initial financing included a $277.2 million credit, $277 million in loan guarantees and a guarantee of up to $90 million to finance interest payments. It was approved by the Ex-Im Bank's board at the end of 1975 and sent to the United States Congress, where no action was taken to block it or suggest amendments.

["If there was a report from anyone at the embassy questioning it, we never saw it," said Mr. Boner. "Rising oil prices made it look like a good deal."

[He said the Ex-Im Bank's current exposure to the project was about $900 million. New loan guanrantees were extended to cover cost overruns and safety improvements after the Three Mile Island accident. He said large loan exposures on nuclear projects were not unusual, citing the bank's exposure of $2.39 billion on six South Korean nuclear plants.]

Mr. Disini himself enjoyed a meteoric rise under Mr. Marcos's aegis. Starting in 1970 as an accountant in a cigarette factory, he rapidly acquired an empire of 52 companies with assets of roughly $400 million, his former associates say.

The key to his success came in 1975, when Mr. Marcos issued a secret presidential decree that effectively put Mr. Disini's major competitor out of business. Mr. Disini was then running a factory that made filters for cigarettes, and the decree imposed a 100 percent duty on the raw materials used by his American-owned competitor.

But in 1982 Mr. Disini left the Philippines after a number of his companies went bankrupt and were taken over by the Government banks, leaving the Government to pay off his other creditors. Many Filipino business executives believe this pattern — of Government banks being forced to pick up failed companies owned by Mr. Marcos's wealthy friends — has been an important factor behind the 15 percent decline in the country's real income over the last four years.